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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
DIXON, THOMAS A

ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 11/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/370,663	ABELOW, DANIEL H.	
	Examiner	Art Unit	
	Thomas A. Dixon	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 September 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *48-51,53-63,71-107,110,111,113-132 and 134-167* is/are pending in the application.

4a) Of the above claim(s) *1-47,52,64-70,108,109,112 and 133* is/are withdrawn from consideration.

5)☒ Claim(s) *90-107,110-111,120-126,136-139, 140-147* is/are allowed.

6)☒ Claim(s) *48-51,54,58,61,62,71-79,82-85,88,113-119,127,129-132,134,135 and 148-167* is/are rejected.

7)☒ Claim(s) *53,55-57,59,60,63,80,81,86,87,89 and 128* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 August 1999* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *27* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1. Claims 108, 109, 112, 133 have been cancelled. Claims 140-167 have been added.

2. IDS, paper #27, submitted 03 September 2002 has been considered.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Response to Amendments and Arguments

4. The rejections of the amended claims 98, 110, 133 and their dependents are withdrawn in view of applicant's amendments.

5. Applicant's arguments filed 3 September 2002 have been fully considered but they are not persuasive.

As per Claim 48.
The phrase "in which the user provides information about his perception of the commodity" is seen to be non functional descriptive material which does not distinguish the claim over the prior art. in terms of patentability, see In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed, Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

As per Claim 127.

Applicant argues that the Eckert Jr et al ('501) does not disclose storing a probe and sending probes to units of the commodity.

Examiner disagrees. The modify reset flag with the Access Code is seen as a stored probe, which monitors the meter's NVM strength and other monitored events and reports to the data center. Further information probes elicit from the user of the meter the amount of refill desired, sent from the data center, see column 5, lines 59-68 or locally, see column 6, lines 46-50.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 113-119 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 113-119 depend from cancelled claims and are therefore indefinite.

5. Claim 163 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "as a function of how recent interactions are" is confusing.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 127, 129-132, 134-135 are rejected under 35 U.S.C. 102(e) as being anticipated by Eckert, Jr. et al (4,442,501).

As per claim 127.
Eckert Jr. et al ('501) discloses:
units of a commodity that are used by respective users in different locations, see figure 1;
a user interface which is part of each of the units of the commodity and provides a medium for two-way local interaction between one of the users and the corresponding units of the commodity for generating information about use of the unit of the commodity by a user, see figure 2 and column 5, lines 13-68;
a communication element that is associated with each of the units of the commodity and carries results of the two-way local interactions from each of the units of the commodity to a central location, see figure 6 (106);
software that manages the interactions of the users in different locations and collection of the results of the interactions at the central location, see figure 6 (102, 103) and sends probes to each of the units of the commodity, see column 1, lines 52-61, column 11, lines 5-24, column 5, lines 59-68 and column 6, lines 46-50.

As per Claim 129.
Eckert Jr. et al ('501) further discloses:
the user interface is electronically triggered based on user behaviors to generate two-way interactions with each of the users, each of the interactions relating to a corresponding specific one of the behaviors, see column 5, lines 13-68.

As per Claim 130.
Eckert Jr. et al ('501) further discloses:
the interactions are triggered based on repeated use of a feature of a unit of the commodity by the user, see column 5, lines 13-68.

As per Claim 131.
Eckert Jr. et al ('501) further discloses:
the software is further configured to provide access to the collection of results to the users of the commodity, column 5, lines 13-68.

As per Claim 132.
Eckert Jr. et al ('501) further discloses:
the software is further configured to provide access to the collection of results to the vendors of the commodity, see column 11, lines 23-50.

As per Claim 134.
Eckert Jr. et al ('501) further discloses:
the results of the interactions are forwarded from the central location to the remote server for analysis, see column 11, lines 23-50 .

As per Claim 135.
Eckert Jr. et al ('501) further discloses:
the two way interaction provides instructions on how to use the commodity, see column 5, lines 59-68.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 48-51, 54, 58, 61-62, 75-79, 82-85, 88, 148-167 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckert Jr. et al (4,442,501).

As per Claim 48.
Eckert Jr. et al ('501) discloses:
units of a commodity that are used by respective users in different locations, see figure 1;
a user interface which is part of each of the units of the commodity and provides a medium for two-way local interaction between one of the users and the corresponding units of the commodity for generating information about use of the unit of the commodity by a user, see figure 2;
a communication element that is associated with each of the units of the commodity and carries results of the two-way local interaction from each of the units of the commodity to a central location, see figure 6 (106);
software that manages the interactions of the users in different locations and collection of the results of the interactions at the central location, see figure 6 (102, 103).
Eckert Jr. et al ('501) does not disclose the user provides information about his perception of the commodity.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed, Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as user perceptions regarding the commodity as an extension of known information gathering techniques.

As per Claim 49.

Eckert Jr. et al ('501) further discloses:

the user interface is electronically triggered based on user behaviors to generate two-way interactions with each of the users, each of the interactions relating to a corresponding specific one of the behaviors, see column 4, line 67 – column 5, line 58.

As per Claim 50.

Eckert Jr. et al ('501) further discloses:

the interactions are triggered to occur based on repeated uses of a feature of a unit of the commodity, see column 6, lines 17-43.

As per Claim 51.

Eckert Jr. et al ('501) further discloses:

the user interface comprises a part if a functional user interface of the unit of the commodity that is used to control features of the commodity, see column 5, lines 1-12.

As per Claim 54.

Eckert Jr. et al ('501) further discloses:

the results of the interactions are forwarded from the central location to a remote server for analysis, see column 11, lines 5-50.

As per Claim 58.

Eckert Jr. et al ('501) further discloses:

the two way interaction provides instructions on how to use the commodity, see column 6, lines 29-43.

As per Claim 61.

Eckert Jr. et al ('501) further discloses:

the two-way interaction is mediated by an publicly or privately accessible on-line computerized information service, see column 11, lines 10-50.

As per Claim 62.

Eckert Jr. et al ('501) further discloses:

presenting the user information in one or more of the following styles: text, lists, charts, views, arrangements, hierarchies, graphical maps, sample extracts, abstracts summary descriptions or hypertext, see figure 2 (50).

As per Claim 75.
Eckert Jr. et al ('501) further discloses:
the user interface includes a console displaying text or graphics, see figure 2.

As per Claim 76.
Eckert Jr. et al ('501) further discloses:
the console comprises a display of a computer, see figure 3 (59, 60, 20).

As per Claim 77.
Eckert Jr. et al ('501) further discloses:
the software is configured to disclose access to collection results to vendors of the commodity, see column 11, lines 5-50.

As per Claim 78.
Eckert Jr. et al ('501) further discloses:
the software is configured to disclose access to collection results to the users of the commodity, see column 5, lines 13-24.

As per Claim 79.
Eckert Jr. et al ('501) further discloses:
the software is configured to provide access to the collection of results to third parties, see column 11, lines 23-24.

As per Claim 82.
Eckert Jr. et al ('501) further discloses:
units of commodity store probes that elicit information from the respective users, see column 5, lines 59-68.

As per Claim 83.
Eckert Jr. et al ('501) further discloses:
the software that manages the interactions of the users sends the probes to each of the units of the commodity, see column 1, line 52 – column 2, line 7 and column 5, line 59 – column 6, line 2.

As per Claim 84.
Eckert Jr. et al ('501) further discloses:
the information about the commodity comprises value information, see column 5, lines 15-24.

As per Claim 85.

Eckert Jr. et al ('501) further discloses:
the value information comprises usage logs, see column 5, lines 15-24.

As per Claim 88.
Eckert Jr. et al ('501) further discloses:
the information guides a user's interaction with the commodity, see column 5, lines 59-68.

As per Claim 148.
Eckert Jr. et al ('501) further discloses:
the two way local interaction enables the user to request support, see column 1, lines 60-61.

As per Claim 149.
Eckert Jr. et al ('501) does not disclose the user provides information about his perception of a problem relating to use of the commodity.
This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed, Cir. 1983).
Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).
Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as user perceptions of a problem relating to use of the commodity as an extension of known information gathering techniques.

As per Claim 150.
Eckert Jr. et al ('501) does not disclose the user provides information includes suggestions of the user to solve the problem relating to use of the commodity.
This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed, Cir. 1983).
Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).
Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as user suggestions to solve the problem relating to use of the commodity as an extension of known information gathering techniques.

As per Claim 151.

Eckert Jr. et al ('501) does not disclose the user provides information includes suggestions of the another user to solve the problem relating to use of the commodity.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed, Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to disseminate data such as user suggestions to solve the problem relating to use of the commodity as an extension of known information dissemination techniques.

As per Claim 152.

Eckert Jr. et al ('501) further discloses:

the communication element also carries information from a passive probe that monitors the user's use of the commodity, see column 7, lines 3-12 and column 10, lines 36- 52.

As per Claim 153.

Eckert Jr. et al ('501) further discloses:

the user interface is triggered based performance with respect to his use of the commodity, see column 7, lines 3-12.

As per Claim 154.

Eckert Jr. et al ('502) further discloses the user interface is triggered based on premature termination of use of the commodity, see column 7, lines 12-18.

As per Claim 155.

Eckert Jr. et al ('502) further discloses the user interface is triggered based on an exception resulting from use of the commodity, see column 7, lines 12-18.

As per Claim 156.

Eckert Jr. et al ('501) does not disclose the user provides information about his needs with respect to use of the commodity.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed, Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as about his needs with respect to use of the commodity as an extension of known information gathering techniques.

As per Claim 157.

Eckert Jr. et al ('501) does not disclose the user provides information about his perception of competing commodities.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed, Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as about his perception of competing commodities as an extension of known information gathering techniques.

As per Claim 158.

Eckert Jr. et al ('501) does not disclose:

the two way local interactions comprise a transaction for sale of a product or a service contract for the commodity.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed, Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as transaction data for sale of a product or service contract as an extension of known information gathering techniques.

As per Claim 159.

Eckert Jr. et al ('501) further discloses:

the two way local interactions comprise a request for servicing of the commodity by the user, see column 1, lines 60-61.

As per Claim 160.

Eckert Jr. et al ('501) does not disclose the commodity is a demonstration unit.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed, Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to provide demonstration units of commodities to users to encourage user dependence upon the commodity and therefore increase sales of the commodity or associated products.

As per Claim 161.

Eckert Jr. et al ('501) further discloses:

the communication element also carries objective information about the user's use of the commodity, see column 5, lines 13-27, column 7, lines 7-12 and lines 50-63 and column 10, lines 16-22.

As per Claim 162.

Eckert Jr. et al ('501) further discloses:

the two-way interactions occur while the user is using the commodity, see column 5, lines 13-27.

As per Claim 163.

Eckert Jr. et al ('501) further discloses:

the software store the results of the interactions with information a trigger event that initiated each respective interaction, see column 7, lines 12-43.

As per Claim 164.

Eckert Jr. et al ('501) further discloses:

the software sends the probes to units of the commodity based on frequency of contact between the respective units and the central location.

As per Claim 165.

Eckert Jr. et al ('501) further discloses:

the software distributes the results of the interactions to the users, see column 5, lines 13-24.

As per Claim 166.

Eckert Jr. et al ('501) further discloses the software stores information for each interaction, see column 5, lines 13-24, but does not disclose the information is about the usefulness of the interaction to other users.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed, Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, In re Danly, 263 F.2d 844, 847, 120

USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as information regarding the usefulness of the interaction to others as an extension of known information gathering techniques.

As per Claim 167.

Eckert Jr. et al ('501) further discloses:

each user can filter information in the collection according to the user's own needs or desires, see column 5, lines 13-24.

8. Claims 71-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckert Jr. et al (4,442,501) in view of Schoenbrun "EASYNET..."

As per Claim 71.

Eckert Jr. et al ('501) further discloses a telephone answerback unit, see column 1, lines 52-56.

Eckert Jr. et al ('501) further does not disclose a voice recorder.

Schoenbrun teaches a system which has online help by typing SOS at any menu and the ability to leave voice messages, see page 53, column 3, line 2 – page 54, column 1, line 24, for the benefit of customer service and cost savings.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Eckert Jr. et al ('501) to include the sound recording capability taught by Schoenbrun for the benefit of customer service and cost savings.

As per Claim 72.

Eckert Jr. et al ('501) further discloses a telephone answerback unit, see column 1, lines 52-56 and modem or direct line communication, see column 11, lines 10-14.

Eckert Jr. et al ('501) further does not disclose a commodity configured to store voice or sound information.

Official notice is taken that voice recording devices are well known, in analog or digital form such as answering machines and tape recorders. It is also well known to store messages, such as email and voicemail for later scheduled distribution.

Schoenbrun teaches a system which has online help by typing SOS at any menu and the ability to leave voice messages, see page 53, column 3, line 2 – page 54, column 1, line 24, for the benefit of customer service and cost savings.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Eckert Jr. et al ('501) to include the sound recording capability taught by Schoenbrun either at the user's machine or the vendor's machine for the benefit of customer service and cost savings.

As per Claim 73.

Eckert Jr. et al ('501) further discloses a telephone answerback unit, see column 1, lines 52-56 and modem or direct line communication, see column 11, lines 10-14.

Eckert Jr. et al ('501) further does not disclose a commodity configured to digitize voice or sound information.

Official notice is taken that voice recording devices are well known, in analog or digital form such as answering machines and tape recorders. It is also well known to store messages, such as email and voicemail for later scheduled distribution.

Schoenbrun teaches a system which has online help by typing SOS at any menu and the ability to leave voice messages, see page 53, column 3, line 2 – page 54, column 1, line 24, for the benefit of customer service and cost savings.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Eckert Jr. et al ('501) to include the sound recording capability taught by Schoenbrun either in analog or digital format for the benefit of customer service and cost savings.

As per Claim 74.

Eckert Jr. et al ('501) further discloses a telephone answerback unit, see column 1, lines 52-56 and modem or direct line communication, see column 11, lines 10-14.

Eckert Jr. et al ('501) further does not disclose Schoenbrun teaches a system which has online help by typing SOS at any menu and the ability to leave voice messages or speak to a live operator, see page 53, column 3, line 2 – page 54, column 1, line 24, for the benefit of customer service and cost savings.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Eckert Jr. et al ('501) to include the live operator contact or sound recording capability taught by Schoenbrun for the benefit of customer service and cost savings.

9. Claim 158 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eckert Jr. et al (4,442,501) Von Kohorn (4,876,592).

As per Claim 158.

Eckert Jr. et al ('501) does not disclose:

the two way local interactions comprise a transaction for sale of a product or a service contract for the commodity.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed, Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Von Kohorn ('592) teaches an interactive television system which offers products for sale in response to questions and responses.

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as transaction data for sale of a product or service contract as an extension of known information gathering techniques taught by Von Kohorn ('592).

Allowable Subject Matter

10. Claims 53, 55-57,59-60, 63, and 80-81, 86-87, 89, 104, 108-109,112, 114, 128 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 90-107, 110-111, 120-126, 136-139 are allowable.

As per Claims 53 and 90.
Eckert Jr. et al ('501) does not disclose:
units of the commodity comprise telephone extension equipment and the central location comprises a private branch exchange or other central telephone network facility.

As per Claims 55.
Eckert Jr. et al ('501) does not disclose:
units of the commodity comprise facsimile equipment and the user interface triggers the two-way interaction to occur on-line between the unit of the facsimile equipment and a vendor of the facsimile equipment.

As per Claims 57 and 137.
Eckert Jr. et al ('501) does not disclose:
units of the commodity comprise consumer television equipment.

As per Claim 63, 112.
Eckert Jr. et al ('501) does not disclose:
the user interface triggers two way interactions that comprise training based on two-way interactions with all or some other users, the interactions being arranged to present actions that the user could take to increase performance or satisfaction to a level achieved by other users.

As per Claim 81, 104, 120, 128, 133.
Eckert Jr. et al ('501) does not disclose:
the style is hypertext.

As per Claim 87.
Eckert Jr. et al ('501) does not disclose:
the value information comprises information about user performance.

As per Claim 89.
Eckert Jr. et al ('501) does not disclose:
the value information comprises information comprises marketing information or information about future product design.

As per Claim 98.
Eckert Jr. et al ('501) does not disclose:
the interactions elicit information about steps that a vendor of the commodity could take to improve the user's satisfaction or
the interactions elicit information about training or support provided for users of the commodity.

As per Claim 110.
Eckert Jr. et al ('501) does not disclose:
the user interface triggers two-way interactions that comprise training based on two-way interactions with all or some other users, the interactions being arranged to present actions that the user could take to increase performance or satisfaction to a level achieved by others.

As per Claim 114.
Eckert Jr. et al ('501) does not disclose:
the interface is triggered based on user comprehension.

Prior Art Made of Record

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The articles "Information bid and asked", "Beyond the Metaphor", "Information industries New Ideas on the block" and "Join the Information Economy" are further articles regarding the system described in Schoenbrun above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (703) 305-4645. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Thomas A. Dixon
Examiner
Art Unit 3629

October 30, 2002